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(j) Beginning on December 1, 1998, the renewal period for new licenses issued to retailers and grocery wholesalers is three years.

(k) Beginning on December 1, 1998, commission merchants, brokers, and dealers (other than grocery wholesalers and retailers) who are new or existing licensees, may choose to renew their licenses on an annual, biennial, or triennial basis. In the event that the holder of a multi-year license ceases business operations or undergoes a change in legal status that results in the issuance of a new license prior to the next license renewal date, a refund will be issued of any remaining full-year portion of advance fee paid, minus a \$100 processing fee.

(1) Retailers and grocery wholesalers who are existing licensees as of December 1, 1998, will be phased into the three-year renewal process during the succeeding one-year as follows:

(1) Licenses held by retailers and grocery wholesalers ending in the digits “0,” “3,” “6,” or “9,” will be renewed on a triennial basis.

(2) Licenses held by retailers and grocery wholesalers ending in the digits “1,” “4,” or “7,” will be renewed for two years and thereafter on a triennial basis.

(3) Licenses held by retailers and grocery wholesalers ending in the digits “2,” “5,” or “8,” will renew their licenses after one year, and thereafter on a triennial basis.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979; 62 FR 15087, Mar. 31, 1997; 63 FR 64172, Nov. 19, 1998]

§ 46.10 Nonlicensed person; liability; penalty.

Any commission merchant, dealer, or broker who violates the Act by engaging in business subject to the Act without a license may settle its liability, if such violation is found by the Director not to have been willful but due to inadvertence, by submitting the required application and paying the amount of fees that it would have paid had it obtained and maintained a license during the period that it engaged in business subject to the Act, plus an additional sum not in excess of two hundred and

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fifty dollars (\$250) as may be determined by the Director.

[62 FR 15087, Mar. 31, 1997]

§ 46.11 What constitutes valid license, form and use.

Each license shall bear a serial number, the names in which authorized to conduct business, type of ownership, if the business is individually owned, the name of the owner; if a partnership, the names of all general partners; if a limited liability company, the names of all members, managers, officers, directors and holders of more than 10 percent of the ownership stake, and the percentage of ownership in the company held by each such person; if a corporation or association, the names of all officers, directors, and shareholders of more than 10 percent of the outstanding stock and the percentage of stock held by each such person; the facsimile signature of the Deputy Administrator, the seal of the Department and shall be duly countersigned. The licensee may place upon his stationery, trucks, or business sign an inscription indicating that he is licensed under the Act, but such inscription must not be of such form or arrangement as to be deceptive or misleading to the public, nor shall any such inscription be displayed or used unless the person using the inscription has a license valid and effective at the time.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 65 FR 24854, Apr. 28, 2000]

§ 46.12 Forms of inscriptions.

The following inscriptions, for use with or without the license number, meet the foregoing requirements and may be used by licensees: “Licensed by the U.S. Department of Agriculture under the Perishable Agricultural Commodities Act”, or “Licensed under the PACA.”

§ 46.13 Address, ownership, changes in trade name, changes in number of branches, changes in members of partnership, and bankruptcy.

The licensee shall:

(a) Promptly report to the Director in writing;

(1) Any change of address;

(2) Any change in officers, directors, members, managers, holders of more

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than 10 percent of the outstanding stock in a corporation, with the percentage of stock held by such person, and holders of more than 10 percent of the ownership stake in a limited liability company, and the percentage of ownership in the company held by each such person;

(3) Any deletions or additions of trade names;

(4) Any change in the number and address of any branches or additional business facilities, and;

(5) When the licensee, or if the licensee is a partnership, any partner is subject to proceedings under the bankruptcy laws. A new license is required in case of a change in the ownership of a firm, the addition or withdrawal of partners in a partnership, or in case business is conducted under a different corporate charter, or in case a limited liability company conducts business under different articles or organization from those under which the license was originally issued.

(b) Obtain approval from the Director prior to using any trade name.

[44 FR 50576, Aug. 29, 1979, as amended at 65 FR 24855, Apr. 28, 2000]

ACCOUNTS AND RECORDS (GENERAL)

§ 46.14 General.

(a) Every commission merchant, dealer, and broker shall prepare and preserve for a period of two years from the closing date of the transaction the accounts, records, and memoranda required by the Act, which shall fully and correctly disclose all transactions involved in his business. Licensees shall keep records which are adapted to the particular business that the licensee is conducting and in each case such records shall fully disclose all transactions in the business in sufficient detail as to be readily understood and audited. It is impracticable to specify in detail every class of records which may be found essential since many different types of business are conducted in the produce industry and many different types of contracts are made covering a wide range of services by agents and others. The responsibility is placed on every licensee to maintain records which will disclose

all essential facts regarding the transactions in his business.

(b) Every commission merchant, dealer, and broker shall prepare and preserve records and memoranda required by the Act which shall fully and correctly disclose the true ownership and management of such business during the preceding four years. Such records shall include the number and location of all branches or additional business facilities operated by or for the commission merchant, dealer or broker. In the case of a corporation, such records shall include the corporate charter, record of stock subscription and stock issued, the amounts paid in for stock and minutes of stockholders' and directors' meetings showing the election of directors and officers, resignations and other pertinent corporate actions. In the case of a partnership, the records shall contain a copy of the partnership agreement showing the type of partnership, the full names and addresses of all partners including general, special or limited partners, the partnership interest of each individual and any other pertinent records of the partnership.

[28 FR 7067, July 11, 1963; 28 FR 7287, July 17, 1963, as amended at 44 FR 50576, Aug. 29, 1979]

§ 46.15 Documents to be preserved.

Bills of lading, diversion orders, paid freight and other bills, car manifests, express receipts, confirmations and memorandums of sales, letter and wire correspondence, inspection certificates, invoices on purchases, receiving records, sales tickets, copies of statements (bills) of sales to customers, accounts of sales, papers relating to loss and damage claims against carriers, records as to reconditioning, shrinkage and dumping, daily inventories by lots, a consolidated record of all rebates and allowances made or received in connection with shipments handled for the account of another, an itemized daily record of cash receipts, ledger records in which purchases and sales can be verified, and all other pertinent papers relating to the shipment, handling, delivery, and sale of each lot of produce shall be preserved for a period of 2 years.